

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-09-170

**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF KAISER
PERMANENTE INSURANCE COMPANY**

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Kaiser Permanente Insurance Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated February 13, 2009 (the "Report"), relevant examiners' work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was licensed by the Division as a Life Insurance Company.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on February 13, 2009, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2007 to December 31, 2007.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners' handbook. The Commissioner also employed other guidelines and procedures that she deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiners' work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A1 concerns the following violation: Failure, in some instances, to maintain and provide, upon request, certain records and documents required for market conduct purposes. The Respondent shall provide evidence to the Division that it has revised its policies and procedures to ensure that they meet the record retention requirements required by Colorado insurance law.
10. Issue E1 concerns the following violation: Failure of the Company's forms, in some instances, to provide coverage for a newborn or adopted dependent to the extent required by Colorado insurance law. The Respondent shall provide evidence to the Division that it has revised its forms to properly disclose the required coverage for newborn and newly adopted dependents mandated by Colorado insurance law.
11. Issue E2 concerns the following violation: Failure, in some instances, to include correct eligibility requirements in the certificate of insurance. The Respondent shall provide evidence to the Division that it has revised its forms to properly reflect the employee eligibility requirements in accordance with Colorado insurance law.
12. Issue E3 concerns the following violation: Failure of the Company's forms, in some instances, to include Medicare eligible employees as being eligible for coverage. The Respondent shall provide evidence to the Division that it has revised its forms to properly reflect all employees eligible for coverage

in accordance with Colorado insurance law.


13. Issue E4 concerns the following violation: Failure of the Company to properly define termination requirements in its membership agreements. The Respondent shall provide evidence to the Division that it has revised its forms to properly reflect allowable termination provisions in accordance with Colorado insurance law.
14. Issue E5 concerns the following violation: Failure of the Company to include a provision for coordination of benefits with Medicare that complies with Colorado insurance law. The Respondent shall provide evidence to the Division that it has revised its forms to properly reflect the required Coordination of Benefits provisions as they relate to Medicare in accordance with Colorado insurance law.
15. Issue E6 concerns the following violation: Failure of the Company's forms, in some instances, to reflect correct information regarding eligibility for conversion coverage. The Respondent shall provide evidence to the Division that it has revised its forms to reflect the correct information relating to conversion policies in accordance with Colorado insurance law.
16. Issue E7 concerns the following violation: Failure of the Company to properly define an eligible dependent. The Respondent shall provide evidence to the Division that it has revised its forms to properly define an eligible dependent in accordance with Colorado insurance law.
17. Issue E8 concerns the following violation: Failure of the Company to properly allow for assignment of benefits. The Respondent shall provide evidence to the Division that it has revised its forms to reflect correct information regarding assignment of benefits in accordance with Colorado insurance law.
18. Issue E9 concerns the following violation: Failure of the Company to properly define pre-authorization procedures. The Respondent shall provide evidence to the Division that it has revised its forms to indicate that pre-authorization requirements are the responsibility of the participating provider that orders or recommends the service, in accordance with Colorado insurance law. The Company shall perform a self-audit of all claims that were impacted by this language to identify and correct any possible negative consumer impact resulting from its practices.
19. Issue H1 concerns the following violation: Failure of the Company's Certificate of Creditable Coverage to reflect the full definition of a "significant break in coverage". The Respondent shall provide evidence to the Division that it has revised its certificates of creditable coverage to reflect the full definition of a significant break in coverage as required by

Colorado insurance law.

20. Issue H2 concerns the following violation: Failure of the Company's Certificate of Creditable Coverage to disclose the name of the entity that provided coverage. The Respondent shall provide evidence to the Division that it has revised its certificates of creditable coverage to include the Company's name as provider of coverage in accordance with Colorado insurance law.
21. Issue J1 concerns the following violation: Failure, in some instances, to pay, deny, or settle claims within the time periods required by Colorado insurance law. The Respondent shall provide evidence to the Division that it has revised its procedures to ensure that all claims are paid, denied, or settled within the time frames required by Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
22. Issue J2 concerns the following violation: Failure, in some instances, to pend unclear claims and to allow the required time for submission of additional information before denying. The Respondent shall provide evidence to the division that it has revised its procedures to ensure that any claims that require additional information are pended and held open for the required time period for the additional information to be submitted as required by Colorado insurance law.
23. Issue J3 concerns the following violation: Failure, in some instances, to provide notice of appeal rights on denied claims. The Respondent shall provide evidence to the Division that it has reviewed and modified its procedures to ensure that members receive notice of their appeal rights in accordance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
24. Pursuant to § 10-1-205(3)(d), C.R.S, the Respondent shall pay a civil penalty to the Division in the amount of One Hundred Sixty-Six Thousand and no/100 dollars (\$166,000.00) for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division Bulletin No. B-1.3, originally issued on January 1, 1998, re-issued May 8, 2007. Said penalty shall be assessed a 15% surcharge up to \$200,000, or \$24,900.00, pursuant to 24-34-108, C.R.S. for a total balance due of \$190,900.00 which will be due to the Division within 30 days of the signing of this Final Agency Order. This surcharge will be used to fund the development, implementation and maintenance of a consumer outreach and education program.

25. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related Order.
26. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Forms violations may be corrected by revising the appropriate noncompliant area(s) of the forms, or by issuing an addendum to correct the noncompliant areas if the Company is unable to correct the actual form within the required time period. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All self audits, if any, shall be performed in accordance with Division's document, 'Guidelines for Self Audits Performed by Companies'. Unless otherwise specified in this Order, all self audit reports must be received within ninety (90) days of the Order, including a summary of the findings and all monetary payments to covered persons.
27. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
28. Copies of the examination report, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

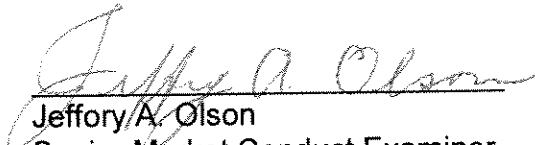
WHEREFORE: It is hereby ordered that the findings and conclusions contained in the Report dated February 13, 2009, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 4th day of June, 2009.


Marcy Morrison
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 4th day of June, 2009, I caused to be deposited the **FINAL AGENCY ORDER NO. O-09-170 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF KAISER PERMANENTE INSURANCE COMPANY**, in the United States Mail via certified mailing with postage affixed and addressed to:

Mr. Mitchell J. Goodstein, President
Kaiser Permanente Insurance Company
300 Lakeside Drive, 28th Floor
Oakland, CA 94612


Jeffery A. Olson
Senior Market Conduct Examiner
Market Regulation
Division of Insurance